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The Municipal Court of Cleveland

THE MUNICIPAL COURT OF CLEVELAND

Laws and Rules

Revised to January 1, 1924

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The Municipal Court of Cleveland

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The Municipal Court of Cleveland

LAWS AND RULES

Municipal court of Cleveland, establishment of

Sec. 1579-1. § 1. That there shall be, and hereby is, established in and for the city of Cleveland, a municipal court, which shall be a court of record and shall be styled "the municipal court of Cleveland," hereinafter designated and referred to as the municipal court.

Number of judges and qualifications.

Sec. 1579-2. § 2. The municipal court shall consist of ten judges, one of whom shall be chief justice and all of whom shall at the time of their election be qualified electors and residents of the city of Cleveland and shall have been admitted to the practice of law at least five years. Provided, however, that at the regular municipal election in 1923 six additional judges shall be elected to the municipal court and thereafter said municipal court shall consist of sixteen judges.

Compensation.

Sec. 1579-3. § 3. Judges of the municipal court shall receive such compensation, payable out of the treasury of Cuyahoga county not less than two thousand five hundred dollars per annum, as the county commissioners may prescribe, and such further compensation, not less than two thousand dollars per annum payable in monthly installments out of the treasury of the city of Cleveland, as the council may prescribe.

Nomination and election of chief justice.

The chief justice who shall be separately nominated and elected as such, shall receive such compensation, payable out of the treasury of Cuyahoga county, not less than two thousand five hundred dollars per annum as the county commissioners may prescribe, and such further compensation, not less than two thousand five hundred dollars per annum, payable in monthly installments out of the treasury of the city of Cleveland as the council may prescribe.

Vacations of judges.

The vacation of the respective judges of the municipal court shall not exceed sixty days during each year, and shall be at such times as fixed by the chief justice, and at least four judges shall be in attendance at all times.

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Removal.

Sec. 1579-4. § 4. The judges of the municipal court shall be subject to the same disabilities and may be removed from office for the same causes and in the same manner as a judge of the court of common pleas.

Nominations election and term.

Sec. 1579-5. § 5. The judges of the municipal court, including the chief justice, shall be nominated by petition. Such petition shall be signed by at least twenty-five hundred electors of the city of Cleveland. It shall be in the general form and shall be signed, verified and filed in the manner and within the time required by law for nominating petitions of other nominees for public office in the city of Cleveland. And they shall be elected by the electors of the city of Cleveland in the manner provided by law for the election of judges of the court of common pleas. The six additional judges provided for in this act shall be elected at the regular municipal election of 1923. Two of said additional judges shall be elected for a period of two years, two for four years and two for six years. At the regular municipal election next preceding the expiration of the term of office of each judge a successor shall be elected for a term of six years. The term of office of each judge shall commence on the first day of January next after his election and he shall hold office until his successor is elected and qualified.

Original civil jurisdiction.

Sec. 1579-6. § 6. The municipal court shall have original civil jurisdiction within the limits of the city of Cleveland in the following cases:

1. In all actions and proceedings of which justices of the peace have or may be given jurisdiction.

2. In all actions and proceedings at law for the recovery of money or personal property of which the courts of common pleas of the county of Cuyahoga have or may be given jurisdiction, when the amount claimed by any party, or the appraised value of the personal property sought to be recovered, does not exceed twenty-five hundred dollars, and in such actions judgment may be rendered for an amount over twenty-five hundred dollars when the excess over twenty-five hundred dollars shall consist of interest or damages, or costs accrued after the commencement of the action.

3. In all actions on contracts, express or implied in law or in fact, when the amount claimed by the plaintiff does not exceed twenty-five hundred dollars, and in such actions judgment may be rendered for over twenty-five hundred dollars when the excess over twenty-five hundred dollars shall consist of interest or damages or costs accrued after the commencement of the action. When a cause arising out of contract is pending in the municipal court and the ends of justice demand that an account be taken or that the contract or contracts, be reformed or cancelled, the municipal court shall have jurisdiction to decree such accounting, reformation, or cancellation.

4. In all actions and proceedings whether legal or equitable, to enforce the collection of its own judgments.

5. In all actions and proceedings for the sale of personal property under a chattel mortgage, lien or other charge or encumbrance, irrespective of amount, and for the foreclosure and marshaling of all liens thereon, and the rendering of personal judgment therein, irrespective of amount, in favor of any party.

6. In all actions and proceedings for the sale of real property under the lien of a judgment of the municipal court, or a lien thereon for machinery, material or fuel furnished or labor performed irrespective of amount, and in such cases the court may proceed to foreclose and marshal all liens thereon, and all rights vested or contingent, therein, and to render personal judgment irrespective of amount in favor of any party.

7. In all actions and proceedings in the nature of creditors' bills, and in aid of execution to subject the interest of a judgment debtor in real or personal property to the payment of a judgment of the municipal court.

8. In all actions and proceedings in the nature of interpleader.

9. In all actions for the foreclosure of a mortgage on real property given to secure the payment of money, the enforcement of a specific lien for money or other encum-

Foreclosure of mortgage on real property.

brance or charge on real property, when the amount claimed by the plaintiff does not exceed twenty-five hundred dollars and the real property is situated within the limits of the city of Cleveland, and in such cases the court may proceed to foreclose all liens thereon and all rights vested and contingent therein and proceed to render such judgments, and make such findings and orders, between the parties, in the same manner and to the same extent as in like cases in the court of common pleas.

10. In all actions for the recovery of real property situated within the city of Cleveland to the same extent as courts of common pleas may now or hereafter be given jurisdiction.

Jurisdiction within limits of county.

Sec. 1579-7. § 7. The municipal court shall have jurisdiction within the limits of the county of Cuyahoga:

1. To compel attendance of witnesses in any pending action or proceeding.

2. To issue execution on its own judgments.

3. In all actions and proceedings whether legal or equitable, to enforce the collection of its own judgments.

4. In all actions and proceedings in the nature of creditors' bills, and in aid of execution to subject the interests of a judgment debtor in real or personal property to the payment of a judgment of the municipal court and in such cases the court may proceed to marshal and foreclose liens thereon irrespective of amount, and all rights, vested or contingent, therein.

5. In all actions and proceedings where one or more defendants reside or are served with summons in the city of Cleveland.

6. To issue and enforce orders of attachment in all cases in which the defendant is a resident of the city of Cleveland.

Issue and service of summons, writs and process when one or some one of defendants reside in city.

Sec. 1579-8. § 8. In any action or proceeding of which the municipal court has jurisdiction of the subject matter, when the defendant or some one of the defendants resides or is served with summons in the city of Cleveland, the municipal court shall have jurisdiction, and summons, orders of interpleader and all other writs and mesne and final process, including executions, necessary or proper for the complete adjudication of the issues and determination of the action may be issued to the sheriff of any county against one or more of the parties.

Further jurisdiction.

Sec. 1579-9. § 9. Whenever an action or proceeding is properly brought in the municipal court, the court shall have jurisdiction to determine, preserve and enforce all rights involved therein, and to hear and determine all legal and equitable remedies necessary or proper for a complete determination of the rights of the parties.

Appellate civil jurisdiction.

Sec. 1579-10. § 10. The municipal court shall have appellate civil jurisdiction from a court of a justice of the peace in the following cases:

1. In all actions and proceedings heard and determined in a court of a justice of the peace in and for the township of Cleveland in the county of Cuyahoga.

2. In all actions and proceedings against a resident of the city of Cleveland, heard and determined in a court of a justice of the peace in and for any township in the county of Cuyahoga other than Cleveland township.

Jurisdiction in ancillary and supplemental proceedings.

Sec. 1579-11. § 11. In all causes the municipal court shall have jurisdiction in every ancillary and supplemental proceeding, before and after judgment, including attachment of person or property, arrest before judgment, interpleader, aid of execution, trial of the right of property, revivor of judgment and the appointment of a receiver, for which authority is now, or may hereafter be, conferred upon the court of common pleas, or a judge thereof, or upon justices of the peace. In addition the plaintiff shall have an order of attachment against the property of the defendant in any civil action of which the municipal court has jurisdiction for the grounds enumerated in section 10253 and in the manner provided by section 10263 of the General Code of Ohio.

Jurisdiction in all misdemeanors, etc.

Sec. 1579-12. § 12. The municipal court shall have jurisdiction of all misdemeanors and of all violations of city ordinances of which police courts in municipalities now have or may hereafter be given jurisdiction. In felonies the municipal court shall have the powers which police courts in municipalities now have or may hereafter be given.

Jurisdiction of bastardy and other quasi-criminal actions.

Sec. 1579-13. § 13. The municipal court shall have jurisdiction of all bastardy and other quasi-criminal actions and proceedings of which a court of a justice of the peace now has or may hereafter be given jurisdiction; and in all such actions the practice and procedure and the powers of the court in relation thereto shall be the same as those which are now or may hereafter be possessed by a court of a justice of the peace.

Further jurisdiction.

Sec. 1579-14. § 14. In the actions and proceedings of which the municipal court has jurisdiction, all laws conferring jurisdiction upon a court of common pleas, a police court or a justice of the peace, giving such court or officer power to hear and determine such causes, prescribing the force and effect of their judgments, orders or decrees, and authorizing or directing the execution or enforcement thereof, shall be held to extend to the municipal court, unless inconsistent with this act or plainly inapplicable.

When amount due exceeds certain sum.

Sec. 1579-15. § 15. When the amount due to either party exceeds the sum for which the municipal court is authorized to enter judgment, such party may remit the excess, and judgment be entered for the residue. A defendant need not remit such excess, and may withhold setting it off, a recovery for the amount set off and allowed, or any part of it, shall not be a bar to his subsequent action for the amount withheld.

When appraised value exceeds $2,500.

Sec. 1579-16. § 16. Whenever the appraised value of property sought to be recovered in any action in the municipal court exceeds twenty-five hundred dollars, the judge of the municipal court shall certify the proceedings in the case to the court of common pleas of Cuyahoga county, and thereupon the clerk of the municipal court shall file the original papers and pleadings, together with a certified transcript

of the docket and journal entries in the case, in the office of the clerk of said court of common pleas. The bailiff shall deliver the property in his possession to the sheriff of Cuyahoga county, to be by him held as in like cases originating in the court of common pleas, and the case shall then be proceeded with in said court as though originating therein. All appraisals of property sought to be recovered in any action in the municipal court shall be made in the manner hereinafter provided.

How value of property ascertained.

Sec. 1579-17. § 17. In any action or proceeding the value of the property may be ascertained by the oath of two disinterested householders of Cuyahoga county when the property appraised consists of personalty, and shall be ascertained by the oath of two disinterested resident householders of Cuyahoga county when the property appraised consists of real estate.

Appeal from justice of peace to municipal court procedure.

Sec. 1579-18. § 18. In any action in a court of a justice of the peace which is appealable to the municipal court any party thereto may file with said justice, within five days after the rendition of a judgment or the making of a final order therein, a notice in writing that he desires to appeal from said judgment or final order to the municipal court, and forthwith all further proceedings in such action in the court of the justice of the peace shall cease, and the appeal shall be considered as perfected, and the appellant shall not be required to file bond. Said justice shall thereupon immediately transmit to the clerk of the municipal court all papers in said action, a transcript of his docket showing the proceedings and the costs of his court, and any moneys held by him in the action and the justice shall order the constable to turn over any property held by him in the action to the bailiff of the municipal court to be by him held as in like cases originating in the municipal court. The clerk of the municipal court shall thereupon notify the appellee of the appeal of said cause.

1. When a cause is appealed the statement of claim of the plaintiff shall be filed in the municipal court on or before the tenth day from the rendition of the judgment appealed from, except that upon good cause shown, the time for filing

the statement of claim may be extended for such reasonable time as the court shall order.

2. When a statement of defense is required the time for filing the same shall be fixed by rule of court not less than ten days after the notice of appeal was filed with a justice of the peace. The case must then proceed as if it had been commenced in the municipal court.

Commencement of actions.

Sec. 1579-19. § 19. Civil action and proceedings in the municipal court shall be commenced by summons or writ, the form of which shall be prescribed by rule of court, except as herein otherwise provided. An action or proceeding shall be commenced on delivery of the summons or writ by the clerk to the bailiff for service.

Service, return and publication.

1. Where no special provision is made in this act all writs and process of the municipal court shall be served and returned, and publication made, in the same manner as is now, or may hereafter be, provided by law, for the service and return of writs and process in the court of common pleas. Where the manner of service and return is not so provided for, service and return may be made in the same manner provided by law for the service and return of writs and process issued by a police court, or a justice of the peace. In addition to the foregoing methods of service and return of writs or process the judges may by rule provide for the service and return of writs or process by mail, registered or otherwise, and when provision for service by mail is so made, a return of the bailiff or sheriff that a true copy of a writ or process was deposited in the mail shall be proof of residence service at the address on the envelope containing such writ or process; provided that such address be the correct residence address of the party to be served, and that such envelope be not returned to the bailiff by the postal authorities as undelivered; in the case of a corporation, domestic or foreign, or a partnership, a return of the bailiff or sheriff that a true copy of the writ or process was deposited in the mail, enclosed in an envelope addressed to the corporation or partnership at its office or place where it regularly receives mail, in the city of of Cleveland, or when the court has jurisdiction, elsewhere in Cuyahoga county or the state of

Ohio, shall be proof of service, provided that such address be the office of the corporation or partnership, or the place where the corporation or partnership regularly receives mail, and that such envelope be not returned by the postal authorities as undelivered; and provided further that, in any case, any person requesting service by bailiff or sheriff shall be entitled thereto.

Return day.

2. The return day shall be fixed by rule of court and the summons or writ shall, unless accompanied with an order to arrest, be served at least three days before the time of appearance.

When sheriff shall serve process.

3. In an action wherein the bailiff is a party, or is interested, writs and process shall be directed to the sheriff of Cuyahoga county. If both these officers are interested, the writs and process shall be directed to and executed by the chief justice.

Filing of pleadings.

4. In all civil cases in the municipal court the plaintiff shall file a statement of claim and the defendant shall file a like statement of any set-off or counter-claim he may desire to assert. A statement of defense shall be filed in such cases and within such time as may be required by rule of the court. In cases where a statement of defense is required the summons shall set forth the date when such statement shall be filed, as fixed by rule of court, which shall not be less than five days after the return day of the summons. The statement shall set forth in plain and direct language the facts constituting the cause of action, set-off, counter-claim, or defense.

Rules of practice and procedure.

5. To expedite the business and promote the ends of justice the judges may from time to time adopt, publish, and revise rules relating to matters of practice and procedure, service and return of writs or process, classify the causes of action in the court and prescribe with reference to each class the degree of particularity with which a cause of action, set-off, counter-claim, or defense shall be set up.

When provisions of General Code shall apply.

6. Where no special provision is made in this act, or by rule of court, the provisions of title four, part third, of

the General Code shall apply to the practice and procedure of the municipal court; but this section shall not be construed to abridge the powers of the judges in respect thereto granted by this act.

Procedure in criminal actions.

Sec. 1579-20. § 20. In all criminal cases and proceedings the practice and procedure and mode of bringing and conducting prosecutions for offenses, and the powers of the court in relation thereto, shall be the same as those which are now, or may hereafter be, possessed by police courts in municipalities.

Recognizance.

All recognizances for the appearance of a defendant, charged with an offense, when the offense is bailable, shall be entered into before the clerk and approved by him; and the surety or sureties therein shall be qualified by the clerk as provided by law.

Qualifications of surety and tenor of recognizance.

One surety in every such bond must be a resident within the jurisdiction of the court, and the sureties must own property worth double the sum to be secured, and must have real estate within the county of Cuyahoga liable to execution of a value equal to the sum to be secured; and when two or more sureties are offered to the same bond or recognizance, they must have in the aggregate the qualification prescribed herein. The recognizance shall require the prisoner to appear before the court to answer the charge against him or before the court of common pleas, when the defendant is held to the grand jury as provided by law.

The recognizance shall clearly disclose the full name of the surety or sureties, together with the residence address, and there shall be endorsed thereon, a brief but pertinent description of the real estate owned by such surety or sureties.

Lien of recognizance.

When the recognizance or bond shall be thus entered into, approved and accepted, the same shall become a subsisting lien on the real estate of the surety or sureties therein upon which they have qualified until the recognizance shall have been exonerated or discharged.

Copy of recognizance to be filed with recorder

A copy of every such bond or recognizance, duly certified under the seal of the court by the clerk, as a true copy, shall be filed by him with the recorder of Cuyahoga county forthwith unless in the meantime the defendant shall have been acquitted or discharged by the court. The said recorder shall provide a suitable record book, properly indexed, in which he shall record all recognizances certified to him as herein provided. The recorder shall be entitled to receive from the clerk, such fees and record charges as are now authorized by law, for recording deeds and mortgages; and such fees and charges shall be taxed by the clerk in the costs of the respective cases, and shall be paid to the recorder by the clerk from funds in his hands upon certified vouchers or bills rendered by said recorder.

The clerk shall transmit to the recorder each day a certified list under the seal of the court, of all bonds or recognizances which have been exonerated or discharged, and the recorder shall note on the margin of the record of each recognizance the discharge or satisfaction of the same, and the lien on the real estate of the surety or sureties in such recognizance or bond shall thereby be cancelled and discharged.

Certain persons not accepted as surety.

The clerk shall not approve nor accept as surety or sureties on any such recognizance any person who is then liable on any recognizance or bond theretofore executed in the municipal court, unless it shall appear to the satisfaction of the clerk, that the person offering himself as surety has sufficient equity in his real estate over and above his liability thereon, to justify the subsequent bond or bonds as herein provided, or unless said prior bond or bonds shall have been exonerated and discharged.

The clerk shall be entitled to tax in the costs of the case, such fee or fees for making the copies and certificates herein required as the court may by rule provide.

Money deposit in lieu of surety.

Provided, however, that in all misdemeanor cases, the clerk, in lieu of the surety or sureties herein required, may accept a deposit of money, in United States legal tender, in an amount equal to the penal sum stipulated in the bond or recognizance, and in any felony case a judge of the munici-

pal court may direct the clerk to accept such a deposit in an amount fixed by the judge, which amount shall be the sum stipulated in the recognizance or bond, and such deposit shall be retained by the clerk as security thereon until the recognizance or bond shall have been exonerated and discharged; and in the event of the forfeiture of any such bond or recognizance, the clerk shall apply the money so deposited in satisfaction of any judgment that may be rendered on the recognizance and the depositor of such fund shall surrender and forfeit all right in and to the same to the extent of such judgment.

Chief justice, additional powers and duties.

Sec. 1579-21. § 21. In addition to the exercise of all the other powers of a judge of said court, the chief justice shall have the general superintendence of the business of the court, and may classify and distribute among the judges the business pending in said court. He shall render a complete annual report to the council of the city of Cleveland, covering the preceding year, which report shall show the work performed by the court, a summary of the expenses of the civil and criminal branches of the court respectively, a statement of receipts and expenditures, the number of cases heard, decided and settled by the court and by each judge thereof, the number of cases reviewed by the court on error, the number of decisions of the municipal court reversed or affirmed by a reviewing court, the number of days and hours of attendance in court of each judge, and such other data as the council may require. Said report shall be printed by the council for free distribution to the public.

Sittings in court; general powers and duties.

The judges of the court may sit separately or otherwise; shall meet at least once in each month and at such other times as the chief justice may determine; shall prescribe forms; establish a system for the docketing of causes, motions and demurrers; adopt and publish rules governing practice and procedure not otherwise provided for in this act; and designate the mode of keeping and authenticating the records of proceedings had before them.

The judges or a judge of the court may summon and impanel jurors; tax costs; compel the attendance of witnesses, jurors and parties; issue process; preserve order;

punish for contempt; and may exercise all powers which are now or may hereafter be conferred upon the court of common pleas or the judges thereof, or upon justices of the peace, or upon police courts of cities or the judges thereof necessary for the exercise of the jurisdiction herein conferred and for the enforcement of the judgments and the orders of the court.

Each judge shall at least once each month, make a report, in writing, to the chief justice, of the duties performed by him, in such manner and form as the chief justice may require.

Any order made by the chief justice, under the special powers conferred upon him in this act, may be vacated, amended or modified, by the vote of a majority of the judges of the court.

Proceedings in error from a justice of the peace.

Sec. 1579-22. § 22. A judgment rendered, or final order made, by any justice of the peace from whose court appeal may be had by the provisions of this act to the municipal court, may also be vacated, modified or reversed, by the municipal court and the proceedings in error in such case shall be the same as are now, or may hereafter be, provided for proceedings in error from a justice of the peace to the court of common pleas, and the justice shall order the constable to turn over any property in his possession to the bailiff of the municipal court to be by him held as in like cases originating in the municipal court.

No jurisdiction when appeal proceedings to common pleas court perfected.

Sec. 1579-23. § 23. The municipal court shall have no jurisdiction, in either appeal or error, when any party to an action in a court of a justice of the peace shall perfect error or appeal proceedings to the court of common pleas, and if the action has been taken on error or appeal to the municipal court, all proceedings in the municipal court shall thereupon cease and the clerk of the municipal court shall transmit all papers and moneys held by him in the action and certify the costs, to the clerk of the common pleas court, and the bailiff of the municipal court shall turn over any property held by him in the action to the sheriff of Cuyahoga county, to be held by him as in like cases originating in the court of common pleas.

What cases shall be tried by court; what by jury.

Sec. 1579-24. § 24. All causes in the municipal court, both civil and criminal, shall be tried by the court unless a jury trial be demanded by a party entitled to the same. The time for making a demand for a jury trial in civil cases may be fixed and limited by rule of court. In all criminal cases, in which the accused is entitled to a jury trial, a demand for a jury trial must be made by the accused before the court shall proceed to inquire into the merits of the cause, otherwise a jury shall be deemed to be waived and the cause shall be tried by the court. In all civil actions, where a jury is demanded, it shall be composed of six lawful electors, unless the parties agree to a less number. Provided, however, that any party may demand a jury of twelve electors. In all actions and proceedings of which police courts have or may be given jurisdiction, where a jury may be and is demanded, it shall be composed of twelve lawful electors. In all civil actions a jury shall render a verdict upon the concurrence of three-fourths or more of their number. When over three-fourths of the jury, as herein provided, shall not consist of an integral number, the next highest number shall be construed to represent three-fourths of such jury.

Taxing costs.

Sec. 1579-25. § 25. In all civil actions and proceedings the cost of summoning jurors and the fees of jurors shall be taxed as part of the costs.

Advance deposit.

Sec. 1579-26. § 26. In all civil cases when a jury trial is demanded the party making such demand may, by rule of court, be required to make an advance deposit of ten dollars for a jury of six men and twenty dollars for a jury of twelve men; provided, however, the party making such demand may by leave of court, file in lieu of such deposit of ten dollars, an affidavit of inability to make such advance deposit when a jury of six men is demanded.

Choosing and summoning jury; fees.

Sec. 1579-27. § 27. Jurors in the municipal court shall be chosen and summoned in accordance with an ordinance of the council of the city of Cleveland, or if no such ordinance is in force, in accordance with a rule of the court. They shall be impaneled in the same manner and challenged for the same causes as jurors in the court of common pleas; they shall have the same qualifications and receive the same fee

as jurors in the court of common pleas; their fees shall be paid out of the treasury of the city of Cleveland. It shall be the duty of the chief justice of the municipal court to cause to be interrogated all jurors summoned for service in the municipal court, and to cause to be inquired into the qualifications of said jurors and to reject from service as jurors all persons who do not appear to possess the qualifications required by law.

New trial.

Sec. 1579-28. § 28. In all causes the municipal court shall have the same authority to set aside a verdict, or a judgment, and grant a new trial, as is now, or may hereafter be, conferred on courts of common pleas.

Calendar.

Sec. 1579-29. § 29. The calendar of the municipal court shall be divided into four terms of three months each, beginning respectively on the first day of January, April, July, and October of each year. The chief justice of the municipal court may continue the session of any term of said court beyond the time fixed for the commencement of the next term, when such continuance is necessary to finish the trial of any cause or to receive the verdict, or pronounce judgment in any cause, the trial of which has been commenced during the term. When a jury has been impaneled for the trial of a case, or an action is on trial in the municipal court, if it be deemed proper by reason of the approaching close of the term of said court, or for any other cause, to adjourn such trial to the next term, the court may order that it be adjourned to a day certain, on which day the case shall proceed and be disposed of as if the trial had commenced at that term. When in any case on trial in the municipal court, the jury returns a verdict, or the court renders a judgment or decision, within the last three days of the term in which such trial was commenced, either party to such case may file a motion for a new trial within three days after the return of such verdict, or the rendition of such judgment or decision.

Effect of judgments.

Sec. 1579-30. § 30. All lands and tenements, including vested interests therein, and permanent leasehold estates, renewable forever, located within the county of Cuyahoga, shall be bound for the satisfaction of any judgment rendered

in the municipal court from the first day of the term at which judgment is rendered; but judgments by confession, and judgments rendered at the same term at which the action is commenced shall bind such lands, tenements, vested interests and permanent leaseholds only from the day on which such judgments are rendered.

Transcripts.

Sec. 1579-31. § 31. The party in whose favor a judgment is rendered by the municipal court may file a transcript of such judgment in the office of the clerk of the court of common pleas, in the same manner and under the same conditions, as are now, or may hereafter be, provided for the filing of transcripts of judgments rendered by justices of the peace; all provisions relative to transcripts of judgments and liens of judgments rendered by justices of the peace, shall, in so far as applicable be applied to transcripts of judgments and liens of judgments rendered by the municipal court.

Enforcement of judgments.

Sec. 1579-32. § 32. The lien of a judgment of the municipal court may be enforced in the court of common pleas in the same manner as the lien of a judgment rendered by the court of common pleas. Execution may be issued on such judgment at any time after a transcript thereof has been filed, as if the judgment had been rendered by the court of common pleas; but all liens shall remain as provided in this act.

Proof of records.

Sec. 1579-33. § 33. The records of the municipal court may be proved by the production of the original records, or by a transcript thereof certified by clerk of said court under its seal.

Index.

Sec. 1579-34. § 34. The clerk of the municipal court shall make and maintain an alphabetical index of the names of all plaintiffs and defendants to suits filed in said court.

Pending action; Notice.

Sec. 1579-35. § 35. When the summons has been served or the publication made, the action in the municipal court is pending so as to charge third persons with notice of its pendency. While pending, no interest can be acquired by third persons in the subject of the action, as against the plaintiff's title.

Proceedings in error.

Sec. 1579-36. § 36. Proceedings in error may be taken to

the court of appeals of Cuyahoga county from a judgment or final order of the municipal court in the same manner and under the same conditions as are provided by law for proceedings in error from the court of common pleas to the court of appeals; provided, however, no proceedings to reverse, vacate or modify, such a judgment or final order shall be commenced unless within sixty days after the overruling of the motion for a new trial, or the entry of the judgment or final order complained of, when the motion for a new trial is not filed; or in case the person entitled to such proceedings is an infant, a person of unsound mind, or imprisoned, within forty days exclusive of the time of such disability. And provided further: That in actions in forcible entry and detention the party objecting to the finding of the court on questions of law and evidence shall reduce his objections to writing and present same to the trial court not more than ten days after the overruling of a motion for a new trial of said action, and no petition in error to reverse, modify or vacate the judgment or final order in such cases shall be filed in the court of appeals, except upon leave of said court of appeals or a judge thereof, and upon notice of such application being first given to the opposite party.

Error proceedings in forcible entry cases.

And provided further that in all criminal actions and proceedings of which the municipal court has final jurisdiction, if the defendant shall deem himself aggrieved by a decision of the court he may present his bill of exceptions thereto, within ten days from the overruling of a motion for a new trial, or from the date the decision, judgment or sentence of the court is entered, which bill of exceptions the court shall allow and sign if the same be correct, and it shall be made a part of the record, and the taking of all bills of exceptions shall be governed by the rules established in civil cases and shall have like force and effect. For good cause shown, the time for signing and allowing a bill of exceptions in any criminal case may be extended a further period not exceeding ten days, by the judge with whom it is filed, and in which event the extension must be endorsed on the bill by such judge.

Bills of exceptions in criminal cases.

And provided further, that in all proceedings in error relating to judgments or orders of the municipal court, the reviewing courts shall take judicial notice of all rules re-

lating to pleading, practice or procedure of the municipal court. When any error proceeding has been determined or dismissed by the court of appeals, the clerk of such court shall, immediately after the time allowed by law for the commencement of proceedings to review the judgment of said court of appeals, if such proceedings have not been commenced, transmit to the clerk of the municipal court all of the original papers and pleadings in such case.

Error pertaining to practice.

Sec. 1579-37. § 37. No assignment of error in a reviewing court shall be allowed in any action which shall call in question the decision of the municipal court in reference to any matter pertaining to the practice in said court; provided, however, that the reviewing court may grant relief from any error of the municipal court in respect to a matter of practice therein in any case where in the opinion of the reviewing court such relief is necessary to prevent a failure of justice.

Stay of execution; bond.

Sec. 1579-38. § 38. A person against whom a judgment has been rendered in the municipal court may stay execution thereon by entering into a bond to the adverse party within ten days after the rendition of such judgment, with sufficient surety, a freeholder owning real property situated in the county of Cuyahoga or a corporation authorized to execute surety bonds in this state, approved by the clerk of the court or a deputy, and conditioned for the payment of the amount of such judgment, interest, costs and costs that accrue. Such bonds shall be entered on the docket of the clerk of the court and shall be signed by such surety. Where a freeholder of the county of Cuyahoga is a surety, said undertaking shall be a lien on the real property of said freeholder situated in the county of Cuyahoga from the time of signing the undertaking until the judgment and all costs in the case upon which the stay of execution has been granted are satisfied.

The stay of execution hereby authorized shall be graduated as follows:

First: On a judgment for $50.00 and under, for sixty days.

Second: On a judgment exceeding $50.00 for one hundred and eighty days.

Cases wherein stay of execution not allowed.

Sec. 1579-39. § 39. Stay of execution on the following judgments shall not be allowed:

1. Judgments against sureties or bail for the stay of execution.

2. Judgments rendered in favor of sureties or bail who have been compelled by judgment to pay money on account of their principal.

3. Judgments rendered against a surety on a bond or undertaking given in any action or proceeding in any court.

4. Judgments for an amount not exceeding $100.00 rendered in favor of any person for wages due for manual labor by him performed.

5. Judgments and decrees in actions of foreclosure of mortgages, mechanics' liens and in proceedings to subject real property to the payment of judgments and marshaling of liens.

Laws governing court of common pleas applicable.

Sec. 1579-40. § 40. Where no special provision is made in this act the laws governing the court of common pleas as to security for costs, bills of exceptions, motions for new trials, vacation or modification of judgment before and after terms, the referring of matters to a referee or special master commissioner, the issuing of executions and orders for stay of execution, and the taking of depositions, shall be held to apply to the municipal court.

Election of clerk; compensation.

At the municipal election of 1911 and every four years thereafter, there shall be nominated and elected a clerk of the municipal court in the same manner as other municipal officers are nominated and elected, who shall serve until his successor is elected and qualified; provided, however, that at the municipal election of 1923 and every four years thereafter said clerk shall be nominated and elected in the same manner as judges of the municipal court are nominated and elected. The term of office of said clerk shall commence on

the first day of January next after his election and he shall hold office until his successor is elected and qualified.

He shall receive such compensation payable out of the treasury of Cuyahoga county not less than two thousand dollars per annum as the county commissioners may prescribe, and such further compensation not less than twenty-five hundred dollars per annum, payable in monthly installments out of the treasury of the city of Cleveland as the council may prescribe. Deputies to the clerk shall be designated as hereinafter provided for in this act.

Powers and duties of clerk.

Sec. 1579-41. § 41. The clerk of the municipal court shall have general powers to administer oaths, and take affidavits, and to issue executions upon any judgment rendered in the municipal court, including a judgment for unpaid costs; he shall have power to issue and sign all writs, process and papers issuing out of the court, and to attach the seal of the court thereto; and except as hereinafter provided, shall have power to approve all bonds, recognizances and undertakings fixed by any judge of the court or by law; shall file and safely keep all journals, records, books and papers belonging or appertaining to the court, record its proceedings and perform all other duties which the judges of the court shall prescribe. He shall pay over to the proper parties all moneys received by him as clerk; he shall receive and collect all costs, fines and penalties, and shall pay therefrom annually six hundred dollars in quarterly installments to the trustees of the law library association as provided for in division IV, chapter 1 of the General Code, and shall pay the balance thereof quarterly to the treasurer of the city of Cleveland and take proper receipts therefor, but money deposited as security for costs shall be retained by him pending the litigation; he shall keep a book showing all receipts and disbursements, which shall be open for public inspection at all times; and shall on the first Monday of each term of court make to the city auditor a report of all receipts and disbursements for the preceding term. He shall succeed to all and shall have all the powers and perform all the duties of police clerks. And as to the selection of the deputy clerks he shall have power to appoint a chief deputy only. All other deputies and assistants shall be appointed or selected by him as hereinafter provided.

Moneys received shall be deposited and draw interest.

Sec. 1579-42. § 42. All money deposited as security for costs and all other moneys, other than costs, paid into the municipal court, shall be noted on the record of the cause in which they are paid and shall be deposited by the clerk in such banking institutions as shall be designated by the judges of the court, there to abide the order of the court and to bear interest at not less than two per cent per annum. On the first Monday in January of each year the clerk shall make a list of the titles of all causes in the municipal court which were finally determined more than one year past, in which there remains unclaimed in the possession of the clerk of any such funds, or any part of a deposit for security for costs not consumed by the costs in the case. The clerk shall give notice of the same to the parties entitled to said moneys. or to their attorneys of record. All such moneys remaining unclaimed on the first day of April of each year shall be paid by the clerk to the city treasurer, provided, however, that any part of such moneys shall be paid to the person having the right thereto upon proper certificate of the clerk of the court.

Bond of clerk.

Sec. 1579-43. § 43. Before entering upon the duties of his office the clerk of the municipal court shall make and file in the office of the treasurer of the city of Cleveland a bond in a sum of not less than ten thousand dollars, to be determined by the judges of the court, with surety to be approved by the auditor of the city of Cleveland, conditioned for the faithful performance of his duties as such clerk. The said bond shall be given for the benefit of the city of Cleveland and for the benefit of any person who may suffer loss by reason of a default in any of the conditions of said bond. A vacancy in the office of the clerk of municipal court shall be filled by the judges of the municipal court for the unexpired term.

Compensation of chief deputy and clerks.

Sec. 1579-44. § 44. The chief deputy clerk shall receive such compensation not less than one thousand five hundred dollars per annum as the council may prescribe. The other deputy clerks shall receive such compensation not less than one thousand two hundred dollars per annum as the council

may prescribe. All of said salaries shall be paid in monthly installments; out of the treasury of the city of Cleveland. If desired by the court the clerk shall designate one deputy to each court room, who shall perform such duties as may be required by the judges. The clerk may require any of the deputy clerks to give bond of not less than one thousand dollars, the terms whereof shall be subject to the approval of the judges of the court. The sureties on said bonds shall be approved and said bonds shall be filed in the manner prescribed for the approval and filing of the clerk's bond. Deputy clerks shall take the same oath or affirmation required of the clerk of said municipal court.

Bailiffs; duties, compensation, bond.

Sec. 1579-45. § 45. A bailiff and deputy bailiffs shall be designated as hereinafter provided for in this act. They shall perform for the municipal court services similar to those usually performed by the sheriff for courts of common pleas and by the constable for courts of justice of the peace and may administer oaths to witnesses and jurors and receive verdicts in the same manner and form and to the same extent as deputy clerks of the court of common pleas are or may hereafter be authorized by law to perform such service. The bailiff shall have power to approve all undertakings and bonds given in actions of replevin, all re-delivery bonds in attachment, and all bail bonds given upon arrest before judgment. The bailiff shall receive such compensation not less than three thousand six hundred dollars per annum and deputy bailiffs shall each receive such compensation not less than one thousand two hundred dollars per annum, as the council may prescribe, payable in monthly installments, out of the treasury of the city of Cleveland. Before entering upon his duties, the bailiff shall make and file in the office of the auditor of the city of Cleveland a bond in the amount of not less than ten thousand dollars to be determined by the judges with two or more sureties to be approved by the chief justice. The terms of said bond shall be subject to the approval of the judges of the court. The said bond shall be given for the benefit of the city of Cleveland and of any persons who shall suffer loss by reason of a default in any of the conditions of said bond. The bailiff may require any of the deputy bailiffs to give a bond of not less than one thousand dollars, the terms whereof shall be subject to the approval of the judges of the court. The sureties on

said bonds shall be approved and said bonds shall be filed in the manner prescribed for the approval and filing of the bailiff's bond. The bailiff may, with the consent and approval of the judges of the court, appoint stenographers and clerks to perform the necessary stenographic and clerical duties in the bailiff's department.

Classified civil service.

Sec. 1579-46. § 46. Excepting the clerk and the chief deputy clerk, the bailiff and all deputy clerks and deputy bailiffs, of the municipal court, shall be in the classified civil service of the city of Cleveland, subject to the provisions of the laws of the state applying to said classified service. From time to time as the chief justice of the municipal court may demand, the civil service commission of the city of Cleveland shall certify to the chief justice of the municipal court a list of those eligible for the positions of bailiff and deputy bailiff, and to the clerk from time to time, as he may demand a list of those eligible for the positions of deputy clerk. From such lists the judges shall designate a bailiff and such number of deputy bailiffs as judges of the said court may deem necessary to transact the business of the court, and the clerk shall designate a chief clerk, and such number of deputies as the city council may determine. Any appointee under this act may be dismissed or discharged by the same power or force which appointed him.

Ex-officio bailiffs.

Every police officer of the City of Cleveland shall be ex-officio a deputy bailiff of the municipal court and shall perform from time to time such duties in respect to cases within the jurisdiction of said court as may be required of them by said court or any judge thereof.

Costs; how taxed.

Sec. 1579-47. § 47. The municipal court, by rule of court, may establish a schedule of fees and costs to be taxed in all actions and proceedings, both civil and criminal, which in no case shall exceed the fees and costs provided for like actions and proceedings by general law.

Accommodations for court.

Sec. 1579-48. § 48. The council of the city of Cleveland shall provide suitable accommodations for the municipal court and its officers including a private room for each judge and sufficient jury room. The council shall also provide for

the use of the court complete sets of the reports of the supreme and inferior courts of Ohio and such other authorities as are deemed necessary, and shall provide for each court room the latest edition of the General Code of Ohio, and necessary supplies including telephone, stationery, furniture, heat and light. The expense of maintaining the court shall be paid out of the treasury of the city of Cleveland.

Seal.

Sec. 1579-49. § 49. The said municipal court shall have a seal which shall have engraved thereon the coat of arms of the state and shall be one and three-fourths inches in diameter and shall be surrounded by these words, "The Municipal Court of Cleveland, Ohio," and shall have no other words or device engraved thereon.

Solicitor and assistants.

Sec. 1579-50. § 50. The solicitor for the city of Cleveland shall also be prosecuting attorney of the municipal court. He may designate such number of assistant prosecutors as the council of the city of Cleveland may authorize. The persons thus appointed shall be subject to the approval of the city council and such assistants shall receive for their services in city cases such salaries as the council may prescribe, and the county commissioners may allow such further compensation as they deem proper, which shall be paid from the county treasury.

The prosecuting attorney of the municipal court shall prosecute all cases brought before such court and perform the same duties, so far as they are applicable thereto, as are required of the prosecuting attorney of the county.

Interpreters and probation officers.

The council of the city of Cleveland by ordinance, shall provide for the appointment of one or more interpreters and one or more persons to be known as probation officers. Probation officers shall have all the powers of regular police officers and shall devote their time to the interests of persons placed upon probation. Upon the order of the municipal court, or a judge thereof, they shall investigate the circumstances of any case that may come before the court for final jurisdiction.

Probation officers and interpreters shall be appointed by the judges of the municipal court, and serve at their pleasure.

They shall receive such compensation as the council by ordinance may prescribe. If a member of the police department is appointed probation officer, he shall have the privilege of returning at any time to the active service in the department and to the same rank and standing as he held at the time of appointment as probation officer.

The judges of the municipal court may also appoint such stenographers and clerks as may be necessary for the conduct of the work of the probation department.

Appointment of substitutes.

Sec. 1579-51. § 51. Whenever the incumbent of any elective office created by this act except that of clerk shall temporarily be absent or incapacitated from acting, the judges shall appoint a substitute, who shall have all the qualifications required of an elective incumbent of the office. Such appointee shall serve until the return of the regular incumbent.

Vacancies.

Any vacancy which may occur in any elective office created by this act, except that of clerk, shall be filled by appointment by the governor until a successor is elected and qualified. Every such vacancy shall be filled by election at the first municipal election taking place more than thirty days after the vacancy shall have occurred. The person elected shall fill the office for the unexpired term.

Wherever under the provisions of this act authority is vested in all the judges constituting said court, such authority shall be exercised in accordance with a majority vote of said judges including the chief justice, and such exercise of authority shall be recorded by a minute thereof or order spread upon the records of the court.

Duties of justices when office abolished.

Sec. 1579-52. § 52. Upon the expiration of the term of office of the last justice of the peace in Cleveland township, Cuyahoga county, after said office has been abolished, the said justice shall deposit with the clerk of the municipal court of Cleveland, his official dockets with all the files, papers and books pertaining to his office; also all of the dockets, files, papers and books of his predecessors or others holding the office of justice of the peace in Cleveland township, which have come into his custody.

Municipal court becomes successor of justices court.

The municipal court of Cleveland shall become the successor in office of the last justice of the peace and after the delivery to the clerk of said court of the dockets of said justice of the peace, or any other justice of the peace of Cleveland township, the said municipal court of Cleveland may proceed in all cases in like manner as if originally had or instituted before said court.

Sections independent.

Sec. 1579-53. § 53. The sections of this act, and every part of such sections are hereby declared to be independent sections and parts of sections and the holding of any section or part thereof to be void or ineffective shall not affect any other section or part thereof.

Terms not shortened.

Sec. 1579-54. § 54. This act shall not be construed to shorten the term for which any judge or officer of the municipal court has been elected.

RULES OF
THE MUNICIPAL COURT OF CLEVELAND

Revised to January 1, 1924

Compiled by Peter J. Henry, Clerk

RULES OF THE MUNICIPAL COURT OF CLEVELAND

(Revised to January 1, 1924)

CIVIL BRANCH

It is hereby ordered that the following be, and the same are hereby adopted as the rules for the docketing of causes and the regulation of the practice and procedure of this court in civil causes, until otherwise ordered:

RULE 1

Cases numbered.

All civil actions brought in this court shall be numbered consecutively as filed, and shall be entered upon the civil docket as numbered. In filing any papers, or calling the attention of the court to any case, the number itself must be given.

RULE 2

Classification of cases.

All civil actions in this court are hereby divided into the following classes:

First-class Cases—(1) All actions for the recovery of money only, whether in contract or tort, wherein the amount sought to be recovered exceeds three hundred dollars ($300), exclusive of interest and costs;

(2) All actions and proceedings equitable in their nature, including:

(a) The marshaling of liens;

(b) Proceedings in aid of execution, or creditors' bills;

(c) Foreclosure of chattel mortgage or other liens upon personal property;

(d) Actions and proceedings for the sale of real property to enforce a judgment of the municipal court, or a lien for material and labor; or a lien of a mortgage on real property situated within the limits of the city of Cleveland, when the amount claimed by the plaintiff does not exceed $2,500.00;

(e) Interpleaders;

(f) Other similar actions and proceedings.

Second-class Cases—(1) All actions for the recovery of money only, whether in contract or tort, wherein the amount sought to be recovered does not exceed three hundred dollars ($300), exclusive of interest and costs;

(2) All actions and proceedings for the recovery of personal property, together with damages for the wrongful detention thereof;

(3) Actions for the recovery of real property, including forcible entry and detainer;

(4) Other similar actions.

The classification of a case shall not change in any of its stages.

RULE 3

Sessions of court.

The sessions in the civil branch of this court shall be from 9 o'clock a. m. until 12 o'clock m., and from 1 o'clock p. m. until 4 o'clock p. m., official time of the city of Cleveland, on each week day, except Saturday, when the sessions shall be from 9 o'clock a. m. until 12 o'clock m., Cleveland official time.

RULE 4

Dockets and records.

The clerk shall prepare and keep the following dockets and books which shall be the public records of the court:

(1) A "Civil Docket" in which shall be entered in consecutive order all civil cases brought in said court, together with all proceedings had therein, properly dated, which docket shall be the final and complete record of said case, except as hereinafter provided;

(2) A "Bond Docket" in which shall be entered the originals of all bonds given to stay execution, as provided by Section 28 of the act passed May 18, 1911 (102 Ohio Laws, page 163), with a proper index thereof;

(3) A "Journal" in which shall be recorded the orders of the court, made in cases wherein extended records are

ordered to be made by the court, in which case the expense of said record is to be taxed as costs in the case; or, are demanded by a party, in which case the expense is to be prepaid by the party demanding the same and not taxed as costs;

(4) A "Record Book" in which shall be recorded the substance only of all pleadings, process, orders and proceedings, together with the judgment entry as same appears on the journal in cases which affect any interest in land; and writs or orders of sale which are levied upon land; the expense of said record to be taxed as costs in said case; or any party to a cause may demand a complete record thereof on pre-payment of the costs of said record, which shall be taxed as part of the costs, or not, as the court may order;

(5) A loose-leaf sheet which shall be known as the "Half Sheet," shall be kept by the clerk for each case, which shall be a copy of the civil docket and kept in the files. Each transaction and a minute of each order and judgment of the court in the case shall be made upon this sheet by the clerk under the direction of the judge;

(6) A "General Index" giving the name of each plaintiff and defendant, direct and reverse;

(7) A "Release Book" in which shall be entered all releases of land, together with a description thereof, which are released from the lien or levy of an order of attachment or judgment lien; the expense thereof to be prepaid by the party presenting such release for entry;

(8) All records and transcripts of records of said court shall be authenticated over the signature of the chief justice or the clerk, with the seal of the court attached.

RULE 5

Docket entries

No satisfaction in whole or in part of a judgment of the municipal court shall be entered in the civil or conciliation dockets, except by the clerk of the court; and all such satisfactions shall bear his attest. All attempted satisfactions of judgments entered contrary to the provisions of this rule shall be of no force or effect.

RULE 6

Plaintiff's statement of claim.

Every civil action in this court shall be commenced by filing in the office of the clerk a pleading—verified as provided by statute, which shall be known as the "Statement of Claim," and the delivery by the clerk of a summons thereon to the bailiff, or sheriff, for service.

Said statement of claim shall contain:

(1) The full name and residence of each plaintiff and his attorney;

(2) The full name and residence of each defendant, if known;

(3) A statement of the net amount claimed, or any other relief demanded;

(4) A statement in plain and direct language of the facts constituting the cause of action with sufficient certainty fairly to inform the defendant of the nature of the case he is called upon to defend;

(5) If in contract, it must set forth or have attached thereto a copy of the contract, if in writing; or if oral, a statement of its terms; and credit must be given for all known credits, counter-claims, or set-offs.

In replevin cases the statement of claim shall conform to and follow so far as applicable the forms of affidavits in replevin, as prescribed by the justices' code.

In ejectment and forcible entry and detainer cases the statement of claim shall show that the plaintiff has a legal estate in the premises and is entitled to the possession thereof, describing the property with such certainty as to identify it, and that the defendant unlawfully keeps the plaintiff out of possession. If there has been a forcible entry that fact shall also be stated.

In all appeal cases the form of the statement of claim shall be the same as provided in this rule, except the same shall state that the cause comes into this court on appeal from the docket of a justice of the peace, and state what justice.

(6) When property attached or levied upon by the

bailiff is claimed by a person or persons other than the party against whom the attachment or execution issued, the claimant shall file a statement of his claim, verified as in other cases, and the same shall be docketed and separately numbered. The claimant shall give at least three days' notice to the plaintiff in the original action or judgment creditor as the case may be or his agent or attorney of the time for the trial of the right of such property, which trial shall be held not less than three days, nor more than six days from the date of the service of said notice, and proof of service of such notice shall be made as in other cases. There shall be a summary hearing of such claim in the room designated for such hearings.

(7) In any case wherein the plaintiff is a non-resident of Cuyahoga county, or an insolvent corporation, the clerk shall not file a statement of claim on behalf of such plaintiff until security for costs shall first have been furnished as provided by sections 11614 or 11615 of the General Code of Ohio.

(8) Petitions to vacate or modify any judgment or order of the court after term shall be filed in and numbered the same as the case in which the vacation or modification of judgment or order is prayed for.

RULE 7

Copies of statement of claim for service.

It shall be the duty of the plaintiff, or his attorney, to file with such statement of claim as many copies thereof as there are defendants to be served with the summons in said action. Upon the filing of any pleading subsequent to the statement of claim, including any demurrer, it shall be the duty of the party filing same, or his attorney, immediately to mail a copy thereof to each other party to such case or his attorney and failure so to do shall be sufficient cause to strike the pleading from the files. Provided, that when the copy of such pleading is to accompany a summons, it shall be deposited with the clerk. Notice of motions and proof of such notice shall be in accordance with sections 11372-3-4 of the General Code.

RULE 8

Summons and other writs.

Upon the filing of said statement of claim and copies thereof summons shall, without request, be forthwith issued and signed by the clerk, and be under the seal of said court. Its style shall be:

"The State of Ohio, }
"Cuyahoga County, } ss. "In the Municipal Court of Cleveland."

and it must be dated the day it is issued, and be returnable two days from its date, except as hereinafter provided. It shall be directed to the bailiff of said court, or the sheriff of the proper county, who shall be commanded therein to notify each defendant that he has been sued and must file a statement of defense (in writing) at the time stated in said summons, or the statement of claim of plaintiff will be taken to be true and judgment rendered accordingly.

Summons in actions for money only, for one hundred dollars or less, exclusive of interest and costs, and summons in actions for the recovery of personal property, and in actions for the forcible entry and detention of real property, or detention alone, or in ejectment, shall command the bailiff, or sheriff, to notify each defendant that he has been sued and to summon him to appear at a designated room at the time specified therein, or the statement of claim of plaintiff will be taken to be true and judgment rendered accordingly.

When the action is for money only, there must be endorsed upon the writ the amount stated in plaintiff's statement of claim, for which with interest judgment will be taken if defendant fails to appear or answer.

Summons in actions for the recovery of personal property shall be returnable at the time at which the defendant is commanded to appear; shall be served at least three days before the time of appearance; and shall command the bailiff immediately to seize and take into custody, wherever they may be found, the goods and chattels mentioned in plaintiff's statement of claim, and deliver the same to plaintiff, provided the plaintiff shall have executed and delivered the bond required by law.

Summons issued to the sheriff of a county other than Cuyahoga county shall be returnable on the seventh day after the date of issuance. When personal service of a copy of the summons and statement of claim, or cross-statement of claim is to be made out of the state, the return thereof shall be the fourteenth day after the date of issuance.

There shall be served with all summons a copy of the plaintiff's statement of claim, filed as provided in Rule 7.

If the action be for the recovery of property, forcible entry and detainer, or equitable relief, the summons shall be so endorsed.

Alias Summons—When a summons is returned "Not Served," alias writs may be issued on precipe of the plaintiff or his attorney, until the defendant is summoned. The alias summons shall be endorsed as above provided, and there shall be attached to said alias summons, for service on each defendant, the copy of plaintiff's statement of claim filed therewith, as provided by Rule 7.

It shall not be necessary to issue summons upon a statement of defense, counter-claim, or set-off, unless new parties are made, or unless personal judgment is sought therein against parties in foreclosure cases. Other writs and orders will be issued only on written request.

RULE 9

Service by mail.

Summons—In all actions for the recovery of money only, the summons shall be served by mail, unless a precipe be filed by the party requesting that service be made by the bailiff, or unless the summons is accompanied by an order of attachment, in which cases service shall be made by the bailiff, or sheriff, in the manner provided in the General Code of Ohio.

In all cases of service by mail the writ shall be enclosed in a sealed envelope, bearing proper postage, and such envelope shall be addressed to the party to be served at his correct residence address. And in the case of a corporation, domestic or foreign, or a partnership, said envelope shall be addressed to the corporation or partnership to be served at its office or place where it regularly receives mail

in the city of Cleveland or elsewhere in the county when the court has jurisdiction. The envelope shall bear a request for a return of the envelope after three days to the bailiff in case of non-delivery. There shall be printed on the outside of the envelope, in red ink, the following words:

"This Envelope Contains a Legal Writ from The Municipal Court of Cleveland"

The return of the bailiff shall show the address to which the writ was mailed. In case of the return of an envelope containing a writ undelivered, the envelope and writ shall be placed in the file of the action and the bailiff shall immediately notify the clerk who shall forthwith note on the half-sheet the return of the writ undelivered, and the bailiff's return shall be amended accordingly.

Postage shall be taxed as part of the costs in the action.

Subpoena—In all actions, whether first or second class, subpoenas shall be served by mail unless otherwise directed by precipe of a party or order of the court, and all provisions relative to the service and return of summons by mail shall apply to such service of subpoenas.

RULE 10

Service by publication.

Service may be made by publication in those cases coming within Section 11292 of the General Code of Ohio, in which the municipal court has jurisdiction; and said service by publication shall be made in the same manner and form as provided by Sections 11293 and 11298, inclusive, of the General Code of Ohio, except as otherwise provided by Section 11 of the act as contained in 103 O. L., page 682.

RULE 11

Rule days for statement of defense and appearance.

The return of the summons by the bailiff, or sheriff, must be made at the time named in the writ, which must be two (2) days from the date of said writ, except in actions for the recovery of personal property, and as otherwise provided in Paragraph 5 of Rule 8.

In all cases in which a statement of defense is required, the rule day within which the statement of defense, motion or demurrer must be filed shall be the fourteenth (14th) day

after the return day of the summons, except as hereinafter provided.

The rule day within which parties served by publication must file their statement of defense, motion or demurrer, or appear, shall in all cases be the fourteenth day from date of the last publication; and proof of publication must be filed before said day.

In all cases in which summons shall be issued to a sheriff of a county other than Cuyahoga county, the rule day within which defendant's statement of defense, motion or demurrer, must be filed, shall be the fourteenth day after the return day of the summons, except in those cases mentioned in Sections 678, 9478 and 9561, of the General Code of Ohio, in which cases the rule day for filing such statement of defense, motion or demurrer, shall be the thirtieth day after the return day of the summons.

In all cases in which statements of defense are not required, the rule day for the defendant to appear shall be the fifth day after the return date of summons at nine o'clock a. m., Cleveland official time.

The rule day for filing statements of defense to amended pleadings, or pleadings filed out of rule, shall be the fourteenth day after the expiration of the leave to file such amended pleading or pleading out of rule.

In cases in which statements of defense are not required, the rule day for defendant's appearance, after filing of amended pleadings, shall be the fifth day after the expiration of such leave to plead.

RULE 12

Rule days in appeal cases.

In all appeal cases the rule day within which plaintiff must file his statement of claim shall be the tenth day from the rendition of judgment appealed from, and the rule day for the filing of the statement of defense, or for appearance of the defendant, in a case in which a statement of defense is not required, shall be the fifth day after the rule day for filing plaintiff's statement of claim.

RULE 13

Statement of defense

In all civil actions (except those against executors, administrators and guardians, upon claims arising before appointment) the defendant, on or before the rule days hereinbefore provided for the different classes of cases, shall file an affidavit, subscribed and vertified by himself, his agent or attorney, which shall be known as the "Statement of Defense," or "Statement of Defense and Counter-Claim, or Set-Off," as the case may be, specifying the nature of such defense, whether by way of a special denial of each material allegation of the statement of claim controverted by the defendant, or by a concise statement of new matter constituting a defense, counter-claim or set-off, in such manner as to reasonably inform the plaintiff of the defense which will be interposed at the trial; and evidence of only such defenses as are set out in said statement of defense shall be admitted on the trial. Provided, however, that in all cases for an amount not exceeding one hundred dollars, exclusive of interest and costs, and in all actions for the recovery of real or personal property, and actions for the forcible entry and detention, or detention alone of real property, the defendant shall not be required to file a statement of defense, unless he seeks affirmative relief. Provided, however, that on motion of plaintiff and for good cause shown, the court may require defendant to file a statement of defense in any action.

When a defendant seeks affirmative relief, his statement of defense must contain a demand for such relief, and shall be so endorsed by the defendant's attorney if he have one.

RULE 14

No general or evasive denials allowed

It shall not be sufficient for a defendant in his statement of defense to deny generally the facts set forth in the statement of claim, or a plaintiff in his affidavit of reply, hereinafter provided for, to deny generally the facts alleged by the defendant in his statement of defense, counter-claim or set-off; but each party shall deny specifically each allegation of which he does not admit the truth, except allegations of damages, and every allegation of fact not denied specifically or by necessary implication shall be taken to be admitted. Any denial of any allegation of fact made by the opposite party must not be evasive, but must be positive and direct.

RULE 15

Demurrers.

In cases of the first-class, demurrers to the statements of claim or defense can be filed for the causes set forth in Sections 11309, 11323, 11324 and 11325, of the General Code of Ohio.

No demurrers shall be filed in second-class cases, but the court may in said second-class cases, on motion, order any statement of claim or of defense to be stricken off on the ground that the same is evasive or does not reasonably inform the defendant or the plaintiff as the case may be, of the cause of action or defense relied upon by the party filing the same; or, the court may order said statement to be made specific and certain.

If it appears to the court from said pleading that the party filing said statement of claim or defense is relying upon a cause of action or defense that is clearly unfounded in law, the court may order the action dismissed, or judgment to be entered upon the pleadings, as may be just.

RULE 16

Joinder of actions and defenses and parties, amendment, counter-claim and set-off, etc.

The provisions of the General Code of Ohio in regard to joinder of actions and defenses and joinder of parties, amendments, counter-claim and set-off and interrogatories and verification of pleadings, so far as applicable, shall be held to apply to this court; the terms "Petition" and "Answer" being held to mean "Statement of Claim" and "Statement of Defense," etc.

RULE 17

Plaintiff's statement of reply.

No reply pleadings in second-class cases will be required—pleas of confession and avoidance, set-off and counter-claim, will be considered as denied by the plaintiff, without pleading, as justice requires. In first-class cases statements of reply shall be filed on or before the fifth day after rule day for statement of defense.

The new matter in the reply will be deemed to be denied without pleading thereto.

No affidavit of reply shall materially change the nature of or be inconsistent with the cause of action set forth in

the statement of claim, and any departure in an affidavit of reply in violation of this rule shall be ground for sustaining a motion to strike from the files.

RULE 18

Call of cases for default and assignment of trial.

On the second day after rule day for filing statement of defense in cases where the same is required, and on appearance day in other cases, at nine o'clock a. m., Cleveland official time, the judge assigned to that duty shall call all cases in which service either by summons or by publication has been duly made upon all defendants and the clerk shall prepare for and deliver to said judge a list of all such cases for call, whether issue has been joined or not. If there is more than one defendant to the action the call day shall be the same for all and shall be the last appearance day or the second (2nd) day following the last rule day for filing a statement of defense, as the case may be. When cases are called, if the defendant is in default a default judgment shall be rendered on the statement of claim in actions on accounts or instruments for the payment of money only, unless a leave to move or plead shall have been granted. In all other cases in which the defendant is in default an entry of default on the part of such defendant shall be made and the case shall be assigned to the trial calendar for evidence the second (2nd) day after call. If the issues are made up, the case shall be assigned for trial as hereinafter provided.

Extension of time to move or plead may be granted by the court in its discretion, for a period not to exceed ten (10) days. A second extension not to exceed ten (10) days may also be granted by stipulation duly and properly filed with the clerk. No further leave shall be obtained or granted except upon motion, in writing, supported by affidavit showing good cause duly filed with the clerk accompanied by proof of notice to the adverse party or parties in conformity with the provisions of Section 11372-3-4 of the General Code. Any such leave to move or plead granted prior to the original call shall extend the call day to the second (2nd) day following the expiration of such leave, but the pendency of a demurrer or motion shall not operate as such extension.

Demand for Jury—Either party desiring a jury must,

upon the date fixed for said original call, or prior thereto, demand the same. If said original call is not made upon the date fixed therefor but is extended by leave to move or plead, as above provided, then such demand shall be made on or before the date to which such original call is extended, but no demand shall be allowed after such original call day, extended as aforesaid, regardless of any leaves to move or plead after call. The demand for a jury must be in writing, and the party demanding said jury must deposit with the clerk at the time such demand is made the sum of ten dollars ($10.00) for a jury of six electors, and twenty dollars ($20.00) for a jury of twelve electors to apply on the expense of said jury trial; provided that when a jury of six electors is demanded, the party making such demand may, by leave of court, file in lieu of such deposit of ten dollars an affidavit of inability to make such advance deposit. Unless such demand for a jury shall be made in accordance with the foregoing provision as to time of demand and deposit or affidavit, the case shall be tried to the court.

The clerk shall select a deputy clerk who shall be known as the "Assignment Clerk" and who shall have charge of the assignment of cases and act under the direction of the chief justice.

All cases which are to be tried shall, upon the rule day for call, be assigned to the proper assignment calendar for trial as soon as the business of the court will permit. Cases shall be assigned for trial in their numerical order from each of said calendars, so far as possible, except that actions involving the liberty of the person, wages, the possession of property, cases which have gone over from the preceding day and cases which the court may advance, shall be preferred.

Replevin, attachment and foreclosure cases will be assigned for trial as follows:

Replevin—two days after call

Attachment (second-class cases) two days after call

Attachment (first-class cases) six days after call

Foreclosure—two weeks after call.

Ejectment and forcible entry and detainer—call day

Aid of execution—proceedings will be had each working day except Saturday. The order in aid of execution shall provide for the attendance of the parties named therein not less than five days from the date of such order.

The chief justice shall designate to the assignment clerk what classes of cases, jury or non-jury cases, he desires to have assigned to certain rooms. Each case when assigned to a room shall be tried or dismissed, unless for good cause shown it is by the judge passed to a later date, in which case it may be held in that room, or returned to the assignment clerk, as the trial judge shall decide.

Cases on the active list and on the second-class calendar, by written consent of all counsel, filed with the assignment clerk before the adjournment of court on the day preceding the one on which the case would be reached for trial, can be postponed, but only for such periods as shall not exceed sixty (60) days in first-class and thirty (30) days second-class cases in the aggregate and after that must be tried or dismissed when reached, unless they are passed to a later date for cause shown under the rule for continuance.

RULE 19

Engagements of counsel in court.

Cases will not be assigned when counsel therein are actually engaged in trial in the federal courts, supreme court, court of appeals, common pleas court, or probate court; but where a firm of attorneys represents a party, a case will not be held on account of such engagements of counsel if other member or members of said firm are not actually engaged in a trial in said courts, but said case must be tried by said disengaged attorney, unless for good cause shown the same is passed to a later date by the court.

RULE 20

Motions and demurrers.

All motions and demurrers, except motions for new trials or to advance or continue, shall be heard each Wednesday and Saturday by the judge designated by the chief justice to hear motions and demurrers, and if neither party appear, the same shall be deemed submitted. A brief, stating the authorities and points relied upon, must be filed with such motion or demurrer. Said notice must be served

at least two days before said motion is called or heard. All motions which are not accompanied by briefs and proof of notice duly served, and all demurrers not accompanied by briefs shall upon call of the motion or demurrer be stricken off.

Any motion may, in the discretion of the court, be referred to the trial room to be disposed of upon the trial of the case. Motions to discharge attachment shall be and any other motion may be, on notice, heard out of their regular order by proper arrangement with the court.

Motions for new trial or to vacate a judgment shall be heard by the trial judge, but in his absence or disability the same shall be assigned to another judge by the chief justice.

Upon the filing of the motion for a new trial, the party filing same shall, upon such filing, file a short brief setting forth the points relied upon, and shall serve a copy of such brief upon the opposite party; and within three days after the filing of such motion, the adverse party shall file a short reply brief. At the expiration of said three days, the motion shall be considered submitted; provided that the judge before whom the cause had been heard may, if he deems it advisable, call in counsel in the case for oral argument.

All motions, except motions for new trial, must be accompanied by proof of notice in accordance with Sections 11372-3-4 of the General Code.

Motions to advance must be accompanied by affidavits showing recognized ground for trial out of numerical order.

RULE 21

Continuances and advancements

All applications for continuances or advancements shall be made to the chief justice or the judge designated by him for such purpose, and except as hereinafter provided, such application must be made before the day of trial after notice to opposing counsel. No case will be continued on the day of trial, except for good cause shown, which cause was not known to counsel prior to the day of trial, and provided that counsel has used due diligence to be ready for trial and has notified or made diligent effort to notify his opponent as soon as he became aware of his necessity to ask for a

postponement. This rule cannot be waived by consent of counsel. All such applications for postponement must be made before the case reaches the trial room.

Applications for passing or continuance of a case sent to a trial room shall be refused by the trial judge or referred to the chief justice for disposition.

RULE 22

Computation of time.

The time within which an act is required to be done under these rules shall be computed by excluding the first day and including the last, except when the last day falls upon Sunday or a holiday it shall be excluded, and the following day counted.

RULE 23

Provisions of civil code shall apply to municipal court.

In all first-class cases the provisions of the Ohio Code of civil procedure governing the practice and procedure of courts of common pleas, so far as the same are applicable to the municipal court and consistent with the act of May 10, 1911, establishing said municipal court, and not inconsistent with the rules otherwise adopted for the practice and procedure of said municipal court, shall be held to apply to and govern the proceedings in said municipal court.

RULE 24

Provisions of justice code shall apply to second-class cases.

In second-class cases the provisions of the Ohio Code governing the practice and procedure in the court of justices of the peace, so far as the same may be applicable to the municipal court and consistent with the act creating the same, and not inconsistent with the rules otherwise adopted, shall be held to apply to and govern the proceedings in said municipal court.

RULE 25

Security for storage charges.

In all cases in which it shall be necessary to store or to provide a custodian for property seized under any writ or order issued by this court, the bailiff shall require a deposit sufficient to secure the probable storage or custodian charges in each case.

RULE 26

Hearing in bank.

The chief justice may in his discretion, upon the request of all the parties to an action, assign two or more judges of this court to sit and hear such action, or may assign one or more judges of the court to sit with himself in the hearing of such action.

RULE 27

Dismissals.

All cases pending for a period of sixty days on the dockets of the municipal court in which service of summons, or service by publication, has not been made, shall be dismissed by the court immediately after the expiration of such sixty days, unless good cause is shown to the contrary.

When an action in this court is dismissed for want of prosecution, for failure to comply with an order of court, or by the plaintiff without prejudice before judgment, all proceedings by plaintiff in any subsequent suit upon the same cause of action shall be stayed until the costs in the former action are paid, unless otherwise ordered by the court.

When a judgment for costs appears against a party unsatisfied, the clerk may refuse to accept for filing any new case or proceeding instituted by such party unless otherwise ordered by the court, upon good cause shown.

RULE 28

Arbitration.

The chief justice, upon his own motion or upon the request of any party, may assign any case in which the issues are made up, to any one or more judges of the court for the purpose of endeavoring to secure an adjustment of such case without trial. Such judge or judges shall endeavor to settle such case, or upon failure to effect such settlement, shall endeavor to secure a complete or partial agreed statement of facts or such other agreement of any kind as will facilitate trial of such case.

Such judge or judges shall not thereafter participate in the trial of such case and the rights of the parties shall in no manner be prejudiced by such attempt to arbitrate.

RULE 29

Journal entries.

The journal entries of all orders, judgments and decrees, which are to be furnished by counsel, must be pre-

sented to the judge entering such order, judgment or decree, for his approval within fourteen days after the date of making the same, unless further time is given; and all such journal entries must bear the endorsement of such judge's approval before the same is entered upon the journal by the clerk. If such entries are not presented to the court within said fourteen days above mentioned, or within the further time given, the case shall be placed by the clerk, upon the list of cases for call after the expiration of said time, and dismissed for want of prosecution.

In the event of the term of office of the judge making an entry expiring before the journal entry thereof is presented and approved, the same shall be presented to the chief justice of this court for his approval; and if the entry upon the docket is so indefinite that the terms of the decree cannot be ascertained therefrom by said chief justice, and counsel in the cause cannot agree as to the terms of said journal entry, said chief justice may send the case back to its proper room for trial.

Any journal entry placed upon the journal, not in conformity with these rules, may be vacated by the court upon its own motion.

RULE 30

Deposit in aid proceedings.

In all proceedings in aid of execution, a deposit of two dollars shall be made with the clerk for filing the affidavit, and no alias order shall be allowed unless there has been failure of service on the writ.

RULE 31

Proof of ten per cent demand.

In all proceedings in attachment and proceedings in aid of execution on claims for necessaries, and wherein ten per centum of personal earnings and costs are sought to be subjected, a copy of the statutory demand made on defendant or judgment debtor, together with proof by affidavit, of service of the demand, shall be filed in the case or proceeding on or before call thereof; otherwise no costs shall be collected out of such personal earnings.

RULE 32

What interest to include in judgments.

In actions commenced prior to the term in which judgment is rendered, interest shall be computed to the first day

of said term, and included in the judgment. In all other actions interest shall be computed to the day of the rendition of the judgment, and included in the judgment.

RULE 33

In all foreclosure actions before a decree is entered the attorneys shall satisfy the trial judge that the title to the property involved has been properly investigated and that all necessary and proper parties have been made parties to the action. The reasonable cost of a certificate from a reputable abstract company shall be taxed as part of the costs.

RULE 34

In all actions at law, tried to the court without the intervention of a jury, the court shall make a finding for the plaintiff or the defendant, as the case may be, and judgment shall be entered upon such finding by the clerk in accordance with the provisions of Section 11599 of the General Code, as in cases in which a verdict is rendered by a jury.

RULE 35

Demands for exemptions shall be in the form of motions directed to the court. Such motions must be accompanied by affidavits showing grounds and proof of notice to the adverse party in accordance with Sections 11372-3-4 of the General Code and Rule 20 of this court and shall be called and disposed of as provided in said Rule 20.

CRIMINAL BRANCH

RULE 1

Opening of court.

The sessions in the criminal branch of this court shall be from 9 o'clock a. m. to 12 o'clock m., and from 1 o'clock p. m. to 4 o'clock p. m., official time of the city of Cleveland, on each week day except Saturday, when the sessions shall be from 9 o'clock a. m. to 12 o'clock m., Cleveland official time.

RULE 2

Motions for first continuance.

In motions for a first continuance, counsel shall state the reasons therefor, and the granting therefor will be in the discretion of the court.

RULE 3

Motions for second continuance

Motions for a second continuance must be in writing, setting forth the facts and reasons therefor (unless dispensed with by the court). If the cause of such motion be the absence of a material witness, the applicant shall state the name of such person, the facts he expects to prove by such witness, and what diligence he has used to procure such testimony; and if the court find the same to be material and due diligence has been used, the motion shall be granted "unless the opposite party will admit that the witness would so testify," when the motion will be over-ruled.

RULE 4

Trial

Business in the criminal branch shall be divided into two general classes—new cases and continued cases.

New cases are taken up at 9 a. m., official time of the city of Cleveland.

Continued cases are taken up not earlier than 10 a. m., Cleveland official time.

Applications for continuance will be the first order of business on each docket.

Cases on the continued case dockets will be called for trial in numerical order.

Reading and signing minutes of proceedings shall be dispensed with.

RULE 5

Procedure.

The provisions of the General Code of Ohio and the ordinances of the city of Cleveland which are in their nature applicable to the proceedings in police court and in respect to which no special provision is made by these rules, are and shall be applicable to the proceedings of this court.

RULE 6

General

All motions and demurrers shall be set down for hearing on Monday of each week or at such other time as may suit the convenience of the court and must be accompanied by a brief, setting forth the points relied upon and the authorities in support thereof; in default of which the same will be stricken from the files.

RULE 7

Warrants of commitment.

Warrants of commitment to the workhouse shall be issued, served and returned, within twenty-four hours from and after judgment rendered, unless unavoidably prevented; provided, however, that when the judgment is to pay a fine and costs, or costs only, and sentenced to be committed until paid, the defendant shall not be committed until the fine and costs, or costs only, have remained unpaid for twenty-four hours, unless the defendant requests otherwise.

RULE 8

Examination of witnesses.

But one counsel on each side shall examine a witness on trial of a cause, and a witness once dismissed shall not be again called to testify until the other testimony for the same party is fully detailed, except by order of court.

RULE 9

Limitation of witnesses.

In all cases of misdemeanors the number of witnesses to give evidence as to facts, shall be limited to three on each side and to each party defendant, and the number of character witnesses to three, unless otherwise ordered by the trial judge.

RULE 10

Bail.

Persons arrested upon warrant charging misdemeanor or violation of a city ordinance, the penalty for which is a fine only, shall be released by the clerk upon signing a personal bond in the sum of $200, without surety, for their appearance, providing, however, that such persons have had a known place of residence within the city of Cleveland for the six months next preceding arrest.

No such personal bond shall be accepted if the prosecuting attorney has caused to be endorsed upon the affidavit in the case the words: "No personal bond," except when ordered by one of the judges in open court.

If an arrest for a misdemeanor or a violation of a city ordinance is made by an officer on view and without warrant, it shall be the duty of the officer to communicate the facts to the clerk who shall, if the prisoner cannot furnish bond forthwith, as soon as a judge can be reached, communicate the same to him and act according to the order of such judge.

RULE 11

Counsel not accepted as surety.

Members of the bar of Cuyahoga county shall not be accepted by the clerk as security for costs in any civil or criminal action, nor as security on any bond required to be given in any case unless otherwise ordered by the court.

CONCILIATION BRANCH

RULE 1

The chief justice shall designate a deputy clerk in the office of the clerk of this court, a part of whose duty it shall be to advise and assist parties in preparing and filing their statements of claim and defense in causes involving a small amount of money, but who shall not appear for them in court or act as their attorney in the case.

RULE 2

Said clerk so assigned shall act as the clerk of the conciliation branch of this court.

RULE 3

The clerk of the court shall keep a separate docket to be known as the conciliation docket, in which actions at law involving an amount not to exceed fifty dollars ($50.00) shall be entered upon the request of the plaintiff, unless the

conciliation clerk shall have been able to conciliate the parties and effect an amicable adjustment; provided, however, that if said clerk is reasonably assured that the plaintiff has a meritorious claim in an amount not to exceed one hundred dollars ($100.00) and that the plaintiff is indigent, such case shall be docketed in like manner as said cases involving fifty dollars ($50.00) or less.

RULE 4

Service by mail shall be made upon the defendant in the same form and manner as provided for civil cases in this court, except that the appearance day shall be the day of the following week corresponding with the date of summons.

RULE 5

The cases upon the conciliation docket shall be heard and determined by the judge assigned to the conciliation branch of the court.

RULE 6

The complaint of the plaintiff in these cases shall be entered directly in the conciliation docket, and therein subscribed by the plaintiff, and such complaint need not be verified. No further pleading shall be required, unless the defendant seeks affirmative relief against the plaintiff, in which event the court may in the interests of justice require the defendant to reduce his defense and counter-claim to writing, either on the conciliation docket or by separate instrument as determined by the court. If such pleading be entered upon the conciliation docket no verification shall be necessary; if it be by separate instrument it shall be verified. The court may then proceed to hear the case or transfer it to the regular docket if he determine that the conciliation court is not the proper forum.

RULE 7

When a bill for costs has been sent to a party in a case entered in the conciliation docket and the same remains unpaid, no case shall be filed by such party until such bill of costs shall have been paid, unless it shall be made to appear to the clerk that the said plaintiff is unable to pay the same.

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